


**RICHMOND POLICE DEPARTMENT GENERAL ORDER**

**NOTE:** This directive is for internal use only, and does not enlarge an employee's civil liability in any way. It should not be constructed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violation of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

Chapter <b>1</b>	Number <b>18</b>	Effective Date <b>07/07/09</b>	Review Date <b>2012</b>
Subject <b>USE OF FORCE REVIEW BOARD (UFRB)</b>			<input type="checkbox"/> New Order  <input checked="" type="checkbox"/> Replaces <b>G.O. 1-18, (03/29/04)</b>
References <b>CALEA 1.3.7</b> <b>VLEPSC ADM.05.03a</b> <b>VA Code 9.1 - 500 - 507</b> <b>General Orders 1-5, 1-17, 7-21</b>			
 <b>Chief of Police or Designee</b>		<b>07/07/09</b> <b>Date</b>	

**I. PURPOSE**

The purpose of this directive is to describe the functions and composition of the Use of Force Review Board (UFRB), an internal panel designed to advise the Chief of Police.

**II. POLICY**

It is the policy of the Richmond Police Department (**RPD**) that all employees maintain the highest degree of both professional and personal conduct and integrity toward citizens and Department members in performing their duties and responsibilities. The UFRB was established to advise the Chief of Police if the use of force was within or outside of the Richmond Police Department's Use of Force Policy (General Order 1-5). The UFRB may convene to hear all alleged complaints of excessive use of force against Department members and review Use of Force Reports (PD-35). The protection of human life is our highest priority. All members of the Department will respect the constitutional rights of each individual. *All RPD members may be subject to serve on a review board.*

**III. ACCOUNTABILITY STATEMENT**

*All employees are expected to fully comply with the guidelines and timelines set forth in this General Order. Failure to comply will result in appropriate corrective action. Responsibility rests with the Division Commander to ensure that any violations of policy are investigated and appropriate training, counseling and/or disciplinary action is initiated.*

**IV. PROCEDURE****A. General Information:**



1. The UFRB shall review incidents of *uses of force*, as directed by the Chief of Police or *designee*, in which a Use of Force Report (PD-35) was required to be completed per *General Order 1-5, Use of Force*. *Excessive force complaints that are investigated by the Internal Affairs Division may be forwarded to the UFRB at the discretion of the Chief of Police.*

Exception: OC Spray Cases – In instances where only *the individual canister deployment of OC Spray is utilized* to subdue a suspect, full review by the UFRB shall not be deemed necessary. In any case where the Major conducting a normal review feels that full review by the Board is advisable, that case would be reviewed. *All cases involving the deployment of an OC fogger shall be heard by the UFRB.*

2. No member of any UFRB shall disclose to any person the matters or individuals discussed or the advice given by such Board, except with the expressed written permission of the Chief of Police or *designee*.
3. When so charged by the Chief of Police, the UFRB is empowered to conduct reviews of any and all types of employee-involved use of force incidents, including all incidents where an officer discharges a service weapon (except during firearms training or sanctioned firearm competitions). The UFRB will not review any use of force incident that is being investigated by the *Office of Professional Responsibility until the investigation is complete.*
4. The role of the UFRB is to decide whether the force used in the incident under review was in accordance with the guidelines of the Richmond Police Department's General Orders and Code of Conduct Policy, (henceforth referred to as, "In Policy"), or when outside of the guidelines (henceforth referred to as, "Out of Policy"). *The following questions must be answered when an incident is under review:*
  - a) *Was the use of force within or outside of the Richmond Police Department's Use of Force Policy (General Order 1-5) and/or other directives?*
  - b) *Were lesser force alternatives reasonably available?*
  - c) *Were proper tactics employed per policy and training?*
  - d) *Did the incident indicate a need for change(s) to the Department's written directives, policies or training procedures?*
5. The UFRB, upon completion of its review and deliberations, shall make a written report to the *Office of the Chief of Police* regarding its findings of: "In Policy" or "Out of Policy". The UFRB shall render its recommendations by consensus and submit its recommendation(s) to the *Office of the Chief of Police* for final determination.
6. If applicable, the UFRB shall submit a written report to the Chief of Police detailing any changes to appropriate written directives, policies or training



methods that it believes should be carried out, as a result of the reviewed incident.

7. If the Chief of Police agrees that the incident is "Out of Policy", it will be returned to the ***Disciplinary Review Officer (DRO) for further actions, in accordance with departmental policies and procedures.***

B. Use of Force Review Board Composition:

1. ***The UFRB will consist of up to seven (7) members.***
2. The Major of ***Support*** Services shall serve as Chairperson and convene the UFRB meetings. The Chairperson has the authority to appoint an alternate Chairperson to serve in his/her absence. ***The UFRB will meet at least once a month or more frequently if necessary.***
3. The UFRB shall consist of the following:
  - a) Major of ***Support*** Services or designee;
  - b) Captain;
  - c) Lieutenant;
  - d) Sergeant;
  - e) Employee Peer; and,
  - f) 1-2 Citizen Members (graduates of the Citizen's Police Academy) plus an alternate, who serves on the panel if one of the other citizen members does not appear.
  - g) Other non-voting members attending the UFRB meetings ***include a representative of the Office of the General Counsel, a Training Advisor and a member of the Internal Affairs Division.***
4. Citizen members will serve a rotating period of one (1) month with eligibility for a second term. At the end of the Board member's term, his/her name will be placed at the end of the eligibility list. Citizen members shall not be currently employed by the City of Richmond. Citizen members will be appointed by the Chief of Police or designee, and must have completed a training course about the review boards at the Richmond Police Academy ***and the applicable departmental policy.***
5. Prior to serving on the UFRB, citizen members shall execute, under oath, a declaration in a form prescribed by the Department that the citizen member has no financial or personal interest in the proceedings before the UFRB on which that citizen is participating.
6. In no event shall the number of citizens sitting on the UFRB exceed the number of Richmond Police Department employees sitting on the UFRB.



7. The candidate pool for the UFRB may consist of any current Police Department members who meet the following guidelines:

- a) *Is not currently the subject of an Internal Affairs investigation;*
- b) *Has not been the subjected to any discipline in the last two (2) years that resulted in a suspension without pay or a demotion;*
- c) *Is not involved in a matter before the Board as the investigator or personally involved in the investigation, a witness or supervisor of the involved employee;*
- d) *Is not related to any person involved in the matter before the Board; and,*
- e) *Is not a member of the same unit as the involved employee.*

C. Use of Force Review Board Meetings:

- 1. The affected employee may be needed to testify before the Board. *The UFRB Chairperson or designee shall ensure that the involved employee is notified in writing at least ten (10) calendar days prior to the Board meeting as to the following: the date, time and place of the Board meeting, members who will make up the UFRB on specified date and the incident involved.* The employee may bring a person with him/her as support (not an attorney), but that individual may not question, comment, or otherwise participate, unless appearing as a witness.
- 2. The affected employee has the right to challenge the participation of up to two (2) members of the UFRB for cause, and must do so in writing within five (5) days of the hearing. No more than two (2) challenges shall be permitted in any proceeding. A challenge shall require supporting documentation as to the reason the affected employee feels the proposed UFRB member would be unable to fairly evaluate the employee's action.
- 3. After *presentation of the evidence and* a consensus recommendation has been achieved, all investigative materials will be returned to the Chairperson.
- 4. The UFRB will make a recommendation to the Chief of Police regarding the incident under review. The Chief of Police may consider such recommendation along with the reasons and evidence supporting it in any subsequent stages of the disciplinary process. The Chief of Police shall make the final determination as to initiating any disciplinary action(s) against the involved employee.
- 5. If, after review of the use of force case, there are other alleged charges against the officer, the case may be referred to the *Office of Professional Responsibility.*



6. *The OIC of Internal Affairs Division or designee shall maintain a master file of all the UFRB findings. Those files, which reference similar cases, shall be reviewed quarterly by the Board to ensure that they are consistently making similar recommendations in comparable incidents.*

V. **ROLES AND ACCOUNTABILITY**

A. *Affected Employee shall:*

1. *Have the opportunity to testify before the Board;*
2. *Be able to bring a person with him/her as support (not an attorney), if desired, but that individual may not question, comment or otherwise participate, unless appearing as a witness; and,*
3. *Have the right to challenge the participation of up to two (2) members of the UFRB for cause, and must do so in writing within five (5) days of the hearing.*

*NOTE: A challenge shall require supporting documentation as to the reason the affected employee feels the proposed UFRB member would be unable to fairly evaluate the employee's action.*

B. *Use of Force Review Board (UFRB) shall:*

1. *Review Use of Force Reports (PD-35) as directed by the Chief of Police or designee and any excessive force complaints forwarded by Internal Affairs or per the Chief of Police;*
2. *Not disclose to any person the matters or individuals discussed or the advice given by such Board, except with the expressed written permission of the Chief of Police or the City Attorney;*
3. *Not review any use of force incident that is being investigated by the Office of Professional Responsibility until the investigation is complete;*
4. *Decide whether the force used in the incident under review was in accordance with the guidelines of the Richmond Police Department's General Orders and Code of Conduct Policy (referred to as "In Policy");*
5. *Submit a written report to the Office of the Chief of Police regarding its recommendations and findings (whether "In Policy" or "Out of Policy") upon completion of its review and deliberations;*
6. *Shall render its recommendations by consensus;*
7. *Include any applicable changes to appropriate written directives, policies or training methods that it believes should be carried out, as a result of the reviewed incident in their report to the Chief of Police, if applicable;*
8. *Return all investigative materials to the Chairperson after a consensus recommendation has been achieved; and,*

9. *Have the authority to refer cases to the Office of Professional Responsibility if, after review of the use of force case, there are other alleged charges against the officer.*
- C. *Chairperson of the UFRB (Major of Support Services) or designee shall:*
1. *Convene the UFRB meetings and have the authority to appoint an alternate Chairperson to serve in his/her absence;*
  2. *Ensure that the involved employee is notified in writing at least ten (10) calendar days prior to the Board meeting as to the following: the date, time and place of the Board meeting, members who will make up the UFRB on specified date and the incident involved; and,*
  3. *Forward recommendations to the Office of the Chief of Police.*
- D. *OIC of the Internal Affairs Division or designee shall:*
1. *Maintain a master file of all the UFRB findings; and,*
  2. *Review those files, which reference similar cases, on a quarterly basis to ensure that the UFRB is consistently making similar recommendations in comparable incidents.*
- E. *Chief of Police or designee shall:*
1. *Consider recommendations as submitted by the UFRB;*
  2. *If Chief concurs with "Out of Policy" incidents, return them to the Disciplinary Review Officer (DRO) for further actions; and,*
  3. *Make the final determination as to initiating any disciplinary action(s) against the involved employee.*

VI. **FORMS**

- A. *PD- 35, Use of Force and completed investigation package*
- B. *PD-120, Review Board Declaration*
- C. *PD-121, Case Disposition Form*